

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHRISTOPHER LEFEVER, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

NO. 3:17-CV-1499

(JUDGE CAPUTO)

ORDER

NOW, this 18th day of October, 2018, **IT IS HEREBY ORDERED** that:

- (1) Richard Rose's Motion for Leave to Proceed *In Forma Pauperis* (Doc. 4) is construed as a motion to proceed without full prepayment of fees and costs, and is **GRANTED**.
- (2) Robert Cummings' Motion for Leave to Proceed *In Forma Pauperis* (Doc. 6) is construed as a motion to proceed without full prepayment of fees and costs, and is **GRANTED**.
- (3) Christopher Lefever's Motion for Leave to Proceed *In Forma Pauperis* (Doc. 11) is construed as a motion to proceed without full prepayment of fees and costs, and is **GRANTED**.
- (4) Daniel Greatwalker's Motion for Leave to Proceed *In Forma Pauperis* (Doc. 13) is construed as a motion to proceed without full prepayment of fees and costs, and is **GRANTED**.
- (5) The Motion for Extension of Time to File Brief (Doc. 8) is **DENIED as moot** because Plaintiffs have since filed a motion and brief in support of their claims (Docs. 18-19).
- (6) Plaintiffs' Petition for Relief Under the Federal Tort Claims Act (Doc. 18), construed as a motion for summary judgment, is **DENIED without prejudice** to re-filing at the proper time in this litigation after Defendant has been served

and in accordance with the Federal Rules of Civil Procedure and this Court's Local Rules.

- (7) Virgil Bigay's Motion to Join as Plaintiff to the Complaint (Doc. 15) is **GRANTED**. The Clerk of Court is directed to amend the docket to reflect Virgil Bigay as a Plaintiff to this action.
- (8) Plaintiffs' Motion for Summary Judgment (Doc. 23), identified as a Motion for Default Judgment on the docket, is **DENIED without prejudice** to re-filing at the proper time in this litigation after Defendant has been served and in accordance with the Federal Rules of Civil Procedure and this Court's Local Rules.
- (9) Plaintiffs' Motion to Amend the Complaint to include David Ebbert, Andrew Edinger, and Jennifer Seroski as Defendants (Doc. 29) is **DENIED** because the Complaint asserts only claims under the Federal Tort Claims Act and "the FTCA authorizes suits only against the United States itself, not individual defendants or agencies." *Gary v. Pa. Human Relations Comm'n*, 497 F. App'x 223, 228 (3d Cir. 2012); *see also CNA v. United States*, 535 F.3d 132, 138 n.2 (3d Cir. 2008) ("The Government is the only proper defendant in a case brought under the FTCA."); *Rankin v. Bledsoe*, No. 11-2352, 2012 WL 1965668, at *2 (M.D. Pa. May 31, 2012).
- (10) The United States Marshal is directed to serve Plaintiff's Complaint (Doc. 1) on the named Defendant.
- (11) The Motion to Serve Defendant (Doc. 33) is **DENIED as moot**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge